

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 214 of 1999

with

INCOME TAX APPLICATION No 215 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

PRATIBHA SYNTEX LIMITED

Appearance:

1. INCOME TAX APPLICATION No. 214 of 1999
MR MANISH R BHATT for Petitioner
MR SN SOPARKAR for Respondent No. 1
 2. INCOME TAX APPLICATION No 215 of 1999
MR MANISH R BHATT for Petitioner
MR SN SOPARKAR for Respondent No. 1
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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE K.M.MEHTA

Date of decision: 29/12/1999

ORAL(COMMON) JUDGEMENT

(per Patel,J):

1. We have heard the learned counsel appearing for the parties. We direct the tribunal to refer the following questions in respective I.T.Applications:

I.T.A.No.214:

1. "Whether, in the facts and circumstances of the case, the I.T.A.T. was justified in law in holding that the provisio to Section 80HHC(3) should be read independent of clause (a) or (b) or (c) and not together so as to ignore the negative figure or a loss which may work out as per the aforesaid clause?"
2. "Whether, in facts and circumstances of the case, the I.T.A.T. was justified in holding that provisions of section 80AB do not apply to section 80HHC despite its overriding effect given with reference to Chapter VIA under the heading "C" deduction in respect of certain incomes under which section 80HHC falls?"

I.T.A.No.215:

1. "Whether, in the facts and circumstances of the case, the I.T.A.T. was justified in law in holding that the provisio to Section 80HHC(3) should be read independent of clause (a) or (b) or (c) and not together so as to ignore the negative figure or a loss which may work out as per the aforesaid clause?"
2. "Whether, in facts and circumstances of the case, the I.T.A.T. was justified in holding that provisions of section 80AB do not apply to section 80HHC despite its overriding effect given with reference to Chapter VIA under the heading "C" deduction in respect of certain incomes under which section 80HHC falls?"
3. "Whether, in facts and circumstances of the case,

the I.T.A.T. was justified in holding that notional duty benefit derived by the assessee amounts to cash assistance under section 28(iiib) of I.T.Act?"

Rule in both the applications is made absolute accordingly. No order as to costs.

29.12.1999 (B.C.PATEL,J)(K.M.MEHTA,J)